

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs November 14, 2006

**STATE OF TENNESSEE v. DONNA W. BARNES**

**Direct Appeal from the Criminal Court for Sullivan County**  
**No. S50,049     Phyllis H. Miller, Judge**

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**No. E2006-00641-CCA-R3-CD - Filed April 9, 2007**

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The defendant, Donna W. Barnes, was found guilty by a jury of theft of property under \$500, a Class A misdemeanor. She appeals the sufficiency of the evidence to support her conviction. We conclude that sufficient evidence was presented for a rational jury to find, beyond a reasonable doubt, the defendant's guilt. We affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed**

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which DAVID H. WELLES and NORMA MCGEE OGLE, JJ., joined.

Stephen M. Wallace, District Public Defender, and Leslie S. Hale, Assistant Public Defender, for the appellant, Donna W. Barnes.

Robert E. Cooper, Jr., Attorney General and Reporter; Leslie E. Price, Assistant Attorney General; H. Greeley Wells, Jr., District Attorney General; Kent L. Chitwood, Jr., Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

This case involves the defendant borrowing a noose pole from Sullivan County Animal Control and never returning it. The noose pole, an instrument used to capture animals which prevents the animals from biting their captors, was valued at approximately \$78.00. This defendant was sentenced to eleven months, twenty-nine days and was placed on supervised probation.

The defendant contends that the evidence presented was insufficient to support her conviction beyond a reasonable doubt. When an accused challenges the sufficiency of the convicting evidence, the standard of review is "whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Jackson v. Virginia, 443 U.S. 307, 319 (1979) (emphasis in original); State v. Goodwin, 143 S.W.3d 771, 775 (Tenn. 2004); see also Tenn. R. App. P. 13(e). "[T]he State is

entitled to the strongest legitimate view of the evidence and to all reasonable and legitimate inferences that may be drawn therefrom.” State v. Smith, 24 S.W.3d 274, 279 (Tenn. 2000). Questions about the credibility of witnesses, the weight and value of the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact, and an appellate court does not re-weigh or re-evaluate the evidence. State v. Evans, 108 S.W.3d 231, 236 (Tenn. 2003).

A jury verdict approved by the trial court accredits the State’s witnesses and resolves all conflicts in the evidence in favor of the State. State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973). “Because a verdict of guilt removes the presumption of innocence and imposes a presumption of guilt, the burden shifts to the defendant upon conviction to show why the evidence is insufficient to support the verdict.” State v. Thacker, 164 S.W.3d 208, 221 (Tenn. 2005). These rules are applicable to findings of guilt predicated upon the direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. State v. Pendergrass, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999). “A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner’s effective consent.” T.C.A. § 39-14-103. Theft of property valued under \$500 is a Class A misdemeanor. T.C.A. § 39-14-105(1).

In the instant case, the defendant admitted that she asked for and received possession of the noose pole on October 6, 2004. She signed a form stating that she would be responsible for the pole and would return it by October 8, 2004. During the trial, the defendant testified that she could not return the noose pole on the due date and that she phoned Animal Control to ask if someone could come to her house and pick it up. She also testified that she did, in fact, return the noose pole and left it in an unlocked Animal Control truck located at the shelter. She testified that there were workers present when she returned the noose pole, but she did not wish to speak to them. Further, the defendant identified one of the noose poles at the shelter as the one she had borrowed and returned. Animal Control Officers Phil Lane and Will Morrell testified that the noose pole was never returned. Officer Aaron West testified that the noose pole, identified by the defendant as the one she borrowed and returned, belonged to him and had not left his possession. It is within the jury’s prerogative to accept the testimony of the officers over that of the defendant. We conclude that sufficient evidence was presented for a rational trier of fact to find the defendant guilty beyond a reasonable doubt.

### Conclusion

Based on foregoing and the record as a whole, we affirm the defendant’s conviction and the judgment of the trial court.

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JOHN EVERETT WILLIAMS, JUDGE